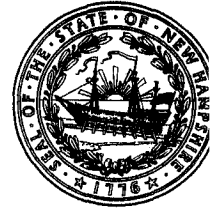




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

February 1, 2006

N. Jonathan Peress, Esq.  
McLane, Graf, Raulerson & Middleton  
15 North Main Street  
Concord, NH 03301-4945

Re: Docket No. AF 06-002 Administrative Fine by Consent Agreement

Dear Attorney Peress:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

  
Michael P. Nolin  
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner  
Harry T. Stewart, P.E., Director, Water Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
DES Public Information Officer  
Barbara Hoffman, DES ARD

Velcro USA, Inc.  
PO Box 4806  
Manchester, NH 03108

Re: 330 Route 108, Somersworth  
Permit No. FP-S-0199

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 06-002**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Air Resources Division, and Velcro USA Inc., pursuant to RSA 125-C:15, I-b. This Administrative Fine by Consent is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Air Resources Division, ("DES") is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, New Hampshire.
2. Velcro USA Inc., ("Velcro") is a Delaware corporation registered to do business in the State of New Hampshire, having a mailing address of P.O. Box 4806, Manchester, NH 03108.

**III. BACKGROUND**

1. RSA 125-C authorizes DES to regulate sources of air pollution. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, the Commissioner has adopted N.H. Code of Admin. Rules Env-A 100, *et seq.*
2. RSA 125-C:15, I-b(b) authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per violation for violations of RSA 125-C and rules adopted pursuant thereto.
3. DES has adopted by reference the majority of federal New Source Performance Standards ("NSPS") in Env-A 503.01. The federal standards are codified in 40 CFR 60.
4. NSPS Subpart RR, Pressure Sensitive Tape and Label Surface Coating Operations, applies to any coating line used in the manufacture of pressure sensitive tape and label materials which begins construction, modification, or reconstruction after December 30, 1980.
5. NSPS Subpart VVV, Polymeric Coating of Supporting Substrates Facilities, applies to any coating operation and any onsite coating mix preparation equipment used to prepare coatings for

the polymeric coating of supporting substrates for which construction, modification, or reconstruction begins after April 30, 1987.

6. Pursuant to 40 CFR 60.7(a)(1), incorporated by reference at Env-A 503.01(a), the owner or operator of a facility subject to a NSPS must notify DES of the date construction is commenced no later than 30 days after such date.
7. Pursuant to 40 CFR 60.7(a)(3), incorporated by reference at Env-A 503.01(a), the owner or operator of a facility subject to a NSPS must notify DES of the actual date of initial startup of the facility within 15 days after such date.
8. Velcro operates two facilities in New Hampshire that manufacture fabricated textile products. The facilities are located at 330 Route 108, Somersworth ("the Somersworth facility"), and 406 Brown Avenue, Manchester ("the Manchester facility").
9. The Somersworth facility operates pursuant to State Permit to Operate FP-S-0199 ("the Somersworth permit") issued November 5, 2002, and the Manchester facility operates pursuant to State Permit to Operate FP-S-0252 ("the Manchester permit") issued October 14, 2004.
10. In the course of drafting the Manchester permit, DES staff determined that the Manchester facility was subject to NSPS Subpart RR and NSPS Subpart VVV, as incorporated by reference at Env-A 503.01(aa) and (aq), respectively. DES personnel conveyed this information to representatives of Velcro at a meeting on April 13, 2004.
11. By letters dated April 21, 2004, and May 10, 2004, Velcro, through its attorney, formally notified DES that the Manchester facility is subject to both NSPS Subparts RR and VVV, and notified DES that the Somersworth facility is subject to NSPS Subpart VVV. Section 60.440(b) of NSPS Subpart RR requires any applicable facility that inputs to its process more than 50 tons of volatile organic compounds (VOCs) per 12-month period to comply with the emission limits of Subpart RR. Section 60.740(b) of NSPS Subpart VVV requires any applicable facility that inputs to its process more than 105 tons of VOCs per 12-month period to comply with the emission limits of Subpart VVV. Because each Velcro facility uses less than 50 tons of VOCs per year, each facility is subject to only the recordkeeping and reporting requirements of the respective NSPS subparts.
12. At the Somersworth facility, both Tenter Frames and both Coating Lines, which were installed in 2001, are subject to NSPS Subpart VVV.
13. At the Manchester facility, Coating lines 7 and 8, which were installed in 1998, are subject to NSPS Subpart VVV.
14. At the Manchester facility, PS Coating Line 1, installed in 1985, PS Coating Line 2, installed in 1987, Hot Melt Line 5, installed in 1996, Hot Melt Line 6, installed in 1996, Hot Melt Line 13, installed in 1996, and Wide Hot Melt, installed in 1996, are subject to NSPS Subpart RR.

15. Since May 10, 2004, both the Manchester and Somersworth facilities have been complying with NSPS Subparts RR and VVV.
16. The applicable requirements of NSPS Subparts RR and VVV are specified in the Manchester permit, which was reissued on October 14, 2004, and modified on June 20, 2005.
17. Velcro submitted an application to DES on July 20, 2004, to modify the Somersworth permit to include the applicable requirements of NSPS Subpart VVV. The permit was so amended on February 11, 2005.

#### **IV. ALLEGATIONS**

1. Velcro violated 40 CFR 60.7(a)(1), as incorporated by reference in Env-A 503.01(a), by failing to notify DES within 30 days of the date(s) construction commenced on both Tenter Frames and both Coating Lines at the Somersworth facility that such lines are subject to NSPS Subpart VVV.
2. Velcro violated 40 CFR 60.7(a)(3), as incorporated by reference in Env-A 503.01(a), by failing to notify DES of the actual date(s) of initial startup of both Tenter Frames and both Coating Lines at the Somersworth facility within 15 days after that date.

#### **V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING**

1. DES has determined the four violations identified in IV.1, above, because they were discovered and self-reported by Velcro, to be moderate deviations from the requirements with a minor potential for harm. RSA 125-C:15, I-b(b) specifies a fine range of \$601-\$1,250 per violation. DES proposes a fine of \$650 for each violation, or \$2600 for all four violations.
2. DES has determined the violations identified in IV.2, above, to be moderate deviations from the requirements with a minor potential for harm. RSA 125-C:15, I-b(b) specifies a fine range of \$601-\$1,250 per violation. DES proposes a fine of \$650 for each violation, or \$2600 for all four violations.
3. Of the proposed fine, in the amount of \$5,200, 35% or \$1,800 shall be suspended due to Velcro's cooperative effort in providing information and correcting the violations in a timely manner upon discovery. The suspended portion of the proposed fine, in the amount of \$1,300 is contingent upon Velcro maintaining the subject facilities in compliance with RSA 125-C, Rules Env-A 100, *et seq.*, and their permits at each facility for a period of two years from the date of execution of this document. If Velcro fails to maintain compliance during the two-year period, the suspended portion of the proposed fines, in the amount of \$1,800 shall become due and payable immediately. If Velcro maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived. Velcro agrees to pay the remaining \$3,400 upon execution of this Agreement by an authorized representative of Velcro.

4. All payments due under Paragraph V.3 shall be by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant  
PO Box 95, Concord, NH 03302-0095

5. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

6. By executing this Agreement, Velcro waives its right to a hearing on or any appeal of the administrative fines identified in Section V, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction. Velcro shall not challenge the validity of the violations alleged herein in the context of any future proceeding by DES assessing the compliance history of Velcro and alleging violations of the New Hampshire Code of Admin Rules enumerated herein, or in any proceeding before DES to enforce this agreement. Other than such enforcement action, DES shall pursue no further administrative action against Velcro relative to the allegations contained herein.

7. The parties have entered into this Agreement to avoid the time and cost of litigation. Except as described in Paragraph 6 above, this agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Velcro; (ii) an admission by Velcro or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Velcro might raise in any third party proceeding.

8. The effective date of this Administrative Fine by Consent shall be the date on which it has been signed by an authorized representative of Velcro, the Director of the Air Resources Division and the Commissioner of DES.

9. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default shall be deemed a waiver of its rights with regard to that breach or default, nor shall such failure be construed as a waiver of the right to enforce each and all of the provisions of this agreement on any further breach or default.

**COPY**  
By: Peter A. Pelletier  
Duly Authorized Secretary

Date: Jan. 10, 2006

Department of Environmental Services

**COPY**

Robert R. Scott, Director  
Air Resources Division

Date: 1-24-06

**COPY**

Michael P. Noonan, Commissioner  
Department of Environmental Services

Date: 01 30 06

cc: K. Barnsley, DES Legal Unit  
D. Crombie, Acting City Manager, Town of Somersworth  
File AFS# 3301100049 (Manchester)

R. Kurowski, EPA, Region I  
File AFS# 3301790232 (Somersworth)